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Attic drama, illustrated by the blended lights of grammatical, philological and historical learning, under the guidance of a discriminating judgment, and a ready sympathy with all that is beautiful in poetical inspiration, and sublime in moral sentiment.

ART. IV. *The History of Rome.*

1. *The History of Rome.* By G. B. NIEBUHR. Translated by JULIUS CHARLES HARE, M. A. and CONNOP THIRLWALL, M. A. Fellows of Trinity College. Cambridge, 2 vols. 8vo. First American from the London edition. Philadelphia, 1835.

WE are very glad to find that the English translation of this celebrated work is republished in our country. Among the multitude of European books, continually issuing from the American press, some of little value, and others at the best entirely worthless, it is truly refreshing to see such a work as Niebuhr's History of Rome. We believe it to be the opinion of all those who are acquainted with the work, that it sheds great light on this most important part of ancient history, and exhibits a far more complete and satisfactory view of the government and political institutions of Rome than can any where else be found.

The first edition of Niebuhr's History was published at Berlin in 1811 and 1812 in two volumes. The novel views presented of the Roman constitution and early history produced much excitement among the literati of Germany, and though it was severely criticised by some of the German scholars, its reception was on the whole very favorable. The author was encouraged to proceed in his researches, convinced, as he says, that the revival of Roman history was in accord with the spirit of the age.

In England and America these inquiries, which were the subject of much interesting discussion on the continent, were for some years scarcely heard of. In an article of this journal about thirteen years ago, containing a notice of the first edition of Niebuhr's History it was mentioned as the misfortune, not to say the disgrace of both countries, that a work

of such transcendent merit should have been published for ten years and be yet so little known.

But for want of a translation the history was inaccessible to a majority of English readers. This obstacle no longer exists, and we are much gratified to have an English translation of the last and highly improved edition of Niebuhr's History. It was executed by Messrs. Hare and Thirlwall, of the University of Oxford, and has the advantage of being sanctioned by Niebuhr himself, who even furnished the translators with corrections that are not found in the German.

The first edition of the history had its origin in a course of lectures delivered by Niebuhr at the opening of the celebrated University of Berlin, commenced in 1810. Encouraged by the favor with which the lectures were received, not only by the students, but by the learned and intelligent of all classes, he was induced to prepare these lectures for publication in the first and second volumes of his history. But though the first effort of Niebuhr exhibited great learning and critical sagacity in investigating and analyzing the traditionary history of Rome, he saw, and no doubt more clearly than any of his readers or critics, that it contained many errors and defects. He freely acknowledges that though he had discovered the meaning of many an ancient mystery, yet more were overlooked, that in much he erred, and a still greater part was left in a disjointed condition, and feebly supported by proofs. His knowledge, he says, was that of a self-taught man, who had as yet been able to devote to study only such hours as he could withdraw from business. The leisure and the means for studying the history and antiquities of Rome under the most favorable circumstances were soon afforded to Niebuhr by the liberality of his patron the king of Prussia. Niebuhr, who had been the Prussian Ambassador to Holland in 1808 and 1814, was in 1816 sent by the king as his Ambassador and Minister Plenipotentiary to Rome. It was understood that the appointment was given to him with the special view, that the historian of Rome might pursue his researches on the spot, which was the scene of the events he was engaged in describing.

This monarch who is not only the founder of the two distinguished Universities of Berlin and Bonn, but who has carried into execution the best system that has yet been framed for the education of the youth of all classes in his dominions, has a claim on the gratitude of his subjects, such as no other sove-

reign can boast. His example in this respect may well put to shame all other governments in christendom whether monarchies or republics.

On his return to Germany in 1823, he settled at Bonn, where he remodeled the first volume of his *History*, corrected the second, and drew up the plan of the third. The new light he had gained at Rome, and especially the rich sources of information opened by the discovery, and publication of the institutes of Gaius and Cicero's Republic, induced him to write the first volume anew, and make it in fact a new creation. His own opinion of it, as compared with the first edition, is thus expressed.

“The work I here lay before the public is, as the first glance will show, an entirely new one, in which scarcely a few fragments of the former have been incorporated. It would have been far easier to preserve the ground-work of the first edition ; I resolved on the more difficult task, as the most expedient, from its giving unity and harmony to the whole. That whole, made up of this and the next two volumes, is the work of a man in his maturity ; whose powers may decline, but whose convictions are thoroughly settled, whose views cannot change : and accordingly I wish that the former edition may be regarded as a youthful work.” — p. 12.

The second edition of the first volume appeared in 1827, and was immediately translated into English by Messrs. Hare and Thirlwall, and published in England in 1828. But notwithstanding the intense, and we believe we may truly say unparalleled labor and research already bestowed upon this volume, the parental care of the author could not yet abandon it. He again revised it, and the third edition appeared in German, in 1828 and the English translation in 1831.

The first edition of the second volume was deemed by the author incomparably more matured and complete than that of the first, and as to a great portion of it he supposed there was nothing to correct and little to add, and that the revision of it would be an easy task. How far this opinion was correct will best appear from his own account.

“Under this notion I fancied that a revised edition might be accomplished in a few months ; but ere long I saw clearly that, in spite of all scepticism, a critical examination of the facts would enable me to restore and establish a certain and credible history from the epoch at which this volume begins, and this being so,

it became worth while to sift every particular with the utmost care, and during this period not to pass over, what in an age of great events would have been excluded as trifling. In like manner I perceived that the changes in the constitution might be traced step by step. Under favorable circumstances even this task might have been executed rapidly, like several disquisitions in the first volume; but that volume had left me in a state of exhaustion which was the consequence of the continued exertion of all my faculties, directed to a single object for sixteen months without any intermission except now and then a few days. My sight grew dim in its passionate efforts to pierce into the obscurity of the subject; and unless I was to send forth an incomplete work, which sooner or later would have had to be wholly remodeled, I was compelled to wait for what time might gradually bring forth; nor has he been niggardly, but though slowly, has granted me one discovery after another. I must, not however, omit that this exhaustion, which in fact resembled the dizziness of a person long deprived of sleep, excited a vehement desire for some different employment; and this led me most inconsiderately, having already such a task as this history on my hands, to engage in editing the Byzantine historians; which, along with other very laborious occupations, for instance the revisal of the third edition of the first volume, greatly impeded the progress of my plan after it had been twice recast; and as I wished to carry them all on together, my health, serenity, and clearness of mind for a time deserted me.

“At length I got quit of many of these interruptions; many of them were overcome; I again felt free and cheerful; the first sheets were written out, and were to be sent to the press the next morning, when the calamity which befell my house during the night, destroyed them all with the exception of a leaf that I happened to have lent to a friend. The materials however had been preserved, and my spirit did not fail, seven weeks after my misfortune, the lost manuscript was replaced, and the printing began.” — pp. 6 — 7.

The second volume was published in 1830. The author had confidently looked forward to the completion of his great work, to which he determined to devote the remainder of his days. He considered it the work of his life, and which was to preserve for him a name not unworthy of his father's.*

* The reader will recollect that the father was Carstein Niebuhr, the celebrated oriental traveller, of whom a very interesting biography has been written by the historian. It has been translated into English by Professor Robinson, of Boston, and published in his learned *Biblical Repository* in 1832.

These pleasing anticipations were soon to be disappointed. The author died January 2d, 1831, at the age of fifty-four. The following note of the translators will show the state in which the work was left by the author, and what we are further to expect.

“Within three months of the publication of this volume, its great author died, and his work is destined to be no more than a fragment. Among his manuscripts, however, there has fortunately been found a continuous history from the dictatorship of Publius, where the original second volume closed, down to the beginning of the first Punic war, written out for the press ten or twelve years ago. This, along with the corrections made in the latter part of the original second volume, embracing the period from the promulgation of the Licinian laws to the dictatorship of Publius, has been placed in the hands of his illustrious friend Savigny; and its speedy publication is expected. As soon as it comes out, the translators will endeavor to complete what has now become their melancholy duty.”

Niebuhr undertook to write a history of Rome from the earliest ages of the city, to the time when Augustus became the acknowledged sovereign of the Roman empire. He begins with the first dawn of the city, his intention was to terminate it at the period when her dominion was extended from the Atlantic to the Euphrates, and from the deserts of Africa to the Rhine and the Danube, comprehending, as Gibbon says, the fairest part of the earth and the most civilized portion of mankind. As the sea receives the rivers, says Niebuhr, so the history of Rome receives into itself that of all other nations known to have existed before her in the regions round the Mediterranean. It was a part of his plan to give a view of the character and condition of these nations, and not to leave the reader to seek the information in other works, where perhaps it may not be found. He considered it the province of the historian of Rome to give the best image of them that could be obtained by research and reflection. The plan of the work and the spirit in which it was commenced is thus stated in Niebuhr's introductory lecture of the course delivered before the University of Berlin, and which is prefixed to the first volume.

“I shall endeavor to examine the history, especially during the first five centuries, not under the guidance of dim feelings, but of searching criticism; nor shall I merely deliver the results,

which could only give birth to blind opinions, but the researches themselves at full length ; I shall strive to lay open the ground-works of the ancient Roman people and state, which have been built over and masked, and about which the old writers preserved to us are often utterly mistaken ; to execute justice in awarding praise and blame, love and hatred, where party-spirit has given birth to misrepresentations, and thereby to false judgments after upwards of two thousand years ; to represent the spreading of the empire, the growth of the constitution, the state of the administration, of manners and of civility, according as from time to time we are able to survey them. I shall exhibit the characters of the men who were mighty in their generation for good or for evil, or who at least distinguished themselves above their fellows. I shall relate the history of the wars with accuracy, whenever they do not offer a mere recurring uniformity, and, so far as our information will allow, shall draw a faithful and distinct portrait of the nations that gradually came within the widening sphere of the Roman power. Moreover, I shall consider the state of literature at its principal epochs, taking notice of the lost as well as the extant writers." — pp. 16—17.

In our remarks on this work we shall endeavor to give a condensed statement of the views which Niebuhr has taken of the early history of Rome, and especially of her internal condition and political institutions, so far as can be comprised within the limits of an article of this kind. But it may be well first to consider what was the state of the Roman history at the time Niebuhr commenced his inquiries.

The modern historians of Rome have derived their materials chiefly from Livy and Dionysius of Halicarnassus. Plutarch, the most credulous of all writers, has furnished some portion of those fictions that modern writers have incorporated into its early history. Polybius, who is the best authority for the times of which he treats, has little concerning the early periods of the commonwealth. That little, however, is very important, as we shall see in the case of the first treaty with Carthage, and the Gallic invasion, where his account is utterly irreconcilable with the common history, and has strangely been overlooked by modern historians. Even Livy, surprising as it may appear, does not, as Niebuhr says, seem to have read Polybius, at least not till after the compilation of the first book of his history. Livy, though inimitably lively and beautiful in narration and description, did not possess the spirit of research and philosophi-

cal criticism, so valuable in every historian, but peculiarly necessary to one who undertakes to explore the dark periods of antiquity and give the history of a remote age. With the imagination of a poet, he seems often to have nearly the same indifference to the truth of his narrative. The constitution he altogether neglected, except when compelled by internal dissensions to turn his eyes upon it, and then his views and judgment were warped by his prejudices.

Roman history, as Niebuhr remarks, was for two centuries after the revival of letters, treated with the same submission of the understanding to the written letter, that for a long time prevailed in all other departments of knowledge. Any attempt to examine the credit due to ancient writers would have been censured as atrocious presumption. The ordinary rules of evidence were rejected as inapplicable to the historical writings of the ancients. The object aimed at, was, in spite of inconsistency, improbability and impossibility, to combine whatever was related by them, and where the contradiction was too evident, to make one authority as gently as possible give way to another, without effecting any further result.

The first writer whom Niebuhr considers to have discerned the true nature of the early history of Rome, was Perizonius, an excellent scholar and critic, professor of History, Eloquence and Greek, at the University of Leyden. His family name was Varbrek, but according to a common custom of the times, he changed it to Perizonius, a word of similar meaning in Greek. His *Dissertationes*, a large work in several volumes, relating chiefly to Roman history, Niebuhr pronounces to be a masterly effort of genius, and unsurpassed in this department. This work attracted but little notice, and the author experienced the common lot of those who are far in advance of their age. He died in 1716.

Beaufort, a Frenchman, whose national feeling was excited by the pretended Roman victories over his Gallic ancestors, in their first invasion of Italy, undertook to vindicate his countrymen from the slanders of the Roman historians. He had the satisfaction of proving clearly that the story of the rescue of the gold and the destruction of the Gauls by Camillus, was entirely fictitious, and that they left Rome, with their booty, and the ransom of a thousand pounds of gold, and were not molested on their return by Camillus, or the Romans. The work of Beaufort had a great influence with intelligent men of the

world in persuading them to give up the early ages of Roman history altogether.

In England, we do not know any political or historical writer whose investigations have made any additions to the knowledge of this portion of ancient history. The sceptical and sagacious Hume seems on this subject to adopt implicitly the common belief, and speculates very ingeniously in some of his essays on supposed facts and customs, which never had existence.

But the German scholars at the end of the last and beginning of the present century, were no longer satisfied with the work of destroying the credibility of the early Roman history. They sought after definite positive knowledge in the room of that imaginary knowledge which critical investigation had overthrown. They examined, criticised, and interpreted the ancients with the same freedom as if they were cotemporaries.

Niebuhr supposes that the story of Rome under the kings has no good historical foundation. He has examined the ancient historians, sifted all the legends which pass for history, and collected all the scattered fragments of them wherever they could be found, not only in the historical writings of the Greeks and Latins, but among the poets, orators, philosophers, and writers of every description. In all these, he finds no solid foundation for the historical record of the early ages. The history as transmitted to us, is made up of popular legends in a variety of forms, combined with dry chronicles; and of scanty results drawn by one or two genuine historians from authentic documents. But he does not therefore give up the Roman history for a large part of its duration as hopeless. He believes that the forms of the constitution under the kings, and the times of the commonwealth, may be recognised with certainty. In this part of his work, and certainly by far the most important part, Niebuhr has been eminently successful. He does not pretend to great accuracy of detail, which would be of little comparative value. But the political institutions, he is of opinion, may be satisfactorily ascertained. During the early ages the constitution was so harmonious in its proportions, the relations so answerable to one another, that where a few traces and remains are brought to light, we may draw safe and certain conclusions concerning other parts. He has endeavored not only to give the original constitution, and the successive

changes made from time to time, but their causes and their consequences.

One source of the early history was the ancient practice for the chief Pontiff to write down on a whitened table, the events of the year, such as prodigies, eclipses, pestilences, a scarcity, campaigns, triumphs, deaths of illustrious men, the introduction of any new custom or institution, the census, names of the magistrates, in a word all that Livy brings together at the end of the tenth book. The tables were then set up in the Pontiff's house, and the annals of the several years were afterwards collected in books. This custom existed from the beginning of the Roman state till the time of the Gracchi.

The other source from which the Roman historians drew their materials for the early history, Niebuhr supposes to have been the legendary tales concerning the foundation of Rome and the warlike exploits and beneficent acts of her kings. These legends he supposes were much more ancient than the genuine annals, and that they had the form as well as very much the spirit of poetry, and were transmitted in lays from one generation to another, that they were not therefore more authentic than any other poem on the deeds of ancient times preserved and transmitted by song. These traditional tales were probably received with entire belief, and held sacred by the Romans for centuries.

But there came a time when the marvellous tales of antiquity were no longer received with implicit faith. Little credit was now given to the original story that Romulus and Remus, the offspring of Mars, were preserved and suckled by a wolf, and when they wanted something more, the woodpecker, the bird sacred to Mars, brought them other food, and that the infants were nourished in this way until the wolf resigned her charge to the shepherd Faustus. The miraculous conclusion of the reign of Romulus seemed incredible to men of a wiser age. According to the old legend, when Romulus was reviewing his people, the sun withdrew his light, Mars descended in a tempest and carried away his son, now made perfect, in a fiery chariot to heaven. When daylight returned, the people sought anxiously for their king and father, the child of the gods. The glorified hero himself appeared to Proculus, and bid him announce to the people, that he would watch over them as the god Quirinus.

Niebuhr supposes that no part of the story of Romulus has

any better historical foundation than that of his infancy and deification. The difference is, that these incidents we know to be false, but as to other parts of the story, we know not whether they are true or false, but there is no historical evidence for them.

The ancient historians made use of these legends as materials for history, by stripping them of the marvellous, assuming that there remained a core of dry historical truth. But though these tales, when thus deprived of a great part of their poetry, appear more credible, yet they were not history, and rested on no solid foundation.

The historians not only took the liberty to omit such parts of the story as appeared incredible, but also to alter and modify the rest, so as out of these legendary tales, to make a plausible and apparently consistent narrative. Niebuhr goes into an examination of all the various traditions concerning the origin of the city. The story of Æneas and the Trojans, and their settlement in Latium, he considers of Italian origin, but destitute of truth. We will mention a few of the numerous traditions concerning the origin of the city of Rome.

According to Nævius and Ennius, the mother of Romulus and Remus was Ilia, the daughter of Æneas, who was condemned for her crime, thrown into the Anio, and was made the bride of the river god. Virgil's description of the wolf's feeding and caressing the babes in her den, is framed after Ennius.

Dionysius mentions a Roman tradition, which represents Romulus and Remus as the grandsons of Æneas, delivered by him as hostages to Latinus, who left them heirs to a part of his kingdom.

The Greek writers, in general, before Timæus, were unanimous in their opinion that the city was built immediately, or in the next generation after the fall of Troy. But on one point they were divided. While most of them considered the Trojans as the founders alone, or together with the aborigines, some on the other hand, supposed the city to be founded by the Greeks, and some by a band composed of both nations. A few ascribed the foundation of the city to Æneas himself, a far greater number to Romulus, whom they represented sometimes as his son, sometimes as his grandson, or more remote descendant.

Callias, the historian of Agathocles, recognised Romulus

and Remus as the founders of the city, calling them the sons of king Latinus, by a Trojan heroine, named Roma, who had persuaded the women to put an end to their wanderings, by setting fire to their ships. Cephalaon, the most ancient of the writers that are quoted, called Romulus and Remus the two younger of the four sons of Æneas. By the Greek writers, the Remus of the Latins is always called Romus.

Aristotle mentions Rome as a Grecian city, founded by the Greeks after their return from Troy.

The Romans did not ascribe their origin to any of the Italian nations, and in the traditions of the oldest times, they appear equally strangers to all the three nations, in the midst of which their city lay, the Sabines, Latins and Etruscans. According to Niebuhr, there is no honor to which the Romans had less title, than that to which the Athenians laid claim of being an original and peculiar people. If they belonged to no one nation, it was only, as may be discerned from their fables and legends, because they sprung from the coalition of several wholly distinct from one another. Each of them left its peculiar inheritance of language, institutions and religion to the Romans, who in their national character were unlike any of the parent races.

The speculations of Niebuhr, concerning the origin of Rome and its earliest tribes, are very learned and ingenious, but throw no light at all on the question, as to the period when the city was founded. All inquiry on this point, proves only that the time is altogether uncertain, and that no reliance is to be placed on the common era. No researches have yet penetrated the darkness which veils the foundation of the Eternal city.

In the following paragraphs, we have Niebuhr's views of the legends, which he supposes to make up a large portion of the early history, and his opinion of their poetic beauty.

“ These poems, out of which, what we call the history of the Roman kings, was resolved into a prose narrative, were different from the *nenia* in form, and of great extent ; consisting partly of lays united into a uniform whole, partly of detached ones, without any necessary connexion. The story of Romulus is an *epopee* by itself ; on Numa, there can only have been short lays. Tullus, the story of the Horatii and the destruction of Alba, form an epical whole, like the poem of Romulus ; indeed, Livy has here preserved a fragment of the poem unaltered, in the lyrical numbers of the old Roman verse. On the other hand, in what is related

of Ancus, there is not a touch of poetical coloring. But afterwards, with L. Tarquinius Priscus, a great poem begins, which ends with the battle of Regillus; and this lay of the Tarquins, even in its prose shape, is still inexpressibly poetical; nor is it less unlike real history. The arrival of Tarquinius the Lucumo at Rome; his deeds and victories; his death; then the marvellous story of Servius; Tullia's impious nuptials; the murder of the just king; the whole story of the last Tarquinius; the warning presages of his fall; Lucretia; the assumed idiocy of Brutus; his death; the war with Porsenna; in the last place, the truly Homeric battle of Regillus; all this forms an epopee, which in force and brilliance of imagination leaves everything produced by the Romans in latter times, far behind it. A stranger to the unity which characterizes the most perfect of Greek poems it divides itself into sections, answering to the adventures in the Lay of the Niebelungen; and should any one ever have the boldness to think of restoring it in a poetical form, he would commit a great mistake in selecting any other than that of this noble work.

“These lays were much older than Ennius, who moulded them into hexameters, and found matter in them for three books of his poems; and who seriously believed himself to be the first of Roman poets, because he had contemptuously shut his eyes against the merits of the old native poetry, and succeeded in suppressing it. Of that poetry and its destruction I shall speak elsewhere; here, only one further remark is needed. Ancient as the ground-work of the epical lays unquestionably was, the form they were handed down in, and a great part of their contents seem to have been comparatively recent. If in the pontifical annals, history was adulterated to favor the patricians, this poetry is pervaded throughout by a plebeian spirit, by hatred of the oppressors, and by evident traces that, at the time when it was sung, some plebeian houses were already great and powerful. The assignments of land, by Numa, Tullus, Ancus and Servius are in this spirit; all the favorite kings are the friends of freedom; the best of them, next to the holy Numa, is the plebeian Servius; the patricians appear in a detestable light, as accomplices in his murder; Caia Cecilia, the Roman wife of the elder Tarquinius, is a plebeian, a kinswoman of the Metelli; the founder of the republic and Mucius Scævola, are plebeians; among the other party, the only noble characters are the Valerii and Horatii; houses friendly to the commons. Hence I should be inclined not to date these poems, the contents of which have come down to us, before the restoration of the city after the Gallic disaster, taking this as their earliest age. The middle of the fifth century, the golden age of Roman art, may perhaps, have also been that of Roman poetry, the same period is also indicated by consulting

the Pythian oracle. The story of the symbolical manner in which the last king instructed his son to get rid of the principal men of Gabii, comes from a Greek tale in Herodotus; so likewise we find the stratagem of Zopyrus related of Sextus; we must, therefore, suppose, that there was some knowledge of Greek legends; and why not of Herodotus himself."

We come now to that portion of the work, which we deem the most important, and where we think the author has been most successful; we mean his inquiries into the internal condition of the Roman state, the different orders of the people, and the forms of the constitution under the monarchy, and the first ages of the commonwealth. There will, no doubt, be differences of opinion as to some parts of the theory which he has framed of the Roman constitution; some objections may be made to the whole, but we think the outlines and main portion of the fabric rest on a basis not to be shaken.

The old system, if system it may be called, that shape and consistency had none, we believe will be exploded, and can never be successfully revived. We think that Niebuhr has discovered what had been before universally misunderstood, the relation between the patricians and plebeians, the character and composition of the different comitia or assemblies of the people, and the nature and object of the institutions ascribed to Servius Tullius.

Some knowledge of the institution of the *gentes*, or as they are denominated, houses, is necessary to a good understanding of both Grecian and Roman history.

No institution was more common in the ancient world than that of *gentes* or houses. Every body of citizens in the states of Italy, Greece, and around the shores of the Mediterranean, were thus divided. A *gens* or house was a union or association of a number of families. It might at first often have been a union of families supposed to be descended from a common ancestor, but in most cases it was a political union.

Niebuhr supposes that all the original inhabitants of the Roman state were thus distributed into houses, that each of the three tribes, the Ramnenses, Titienses, and Luceres, at first consisted of one hundred houses. Each tribe was divided into ten curiae or curies, and each cury into ten houses, thus making thirty curies and three hundred houses. These houses bore some resemblance to the clans in Scotland; in some respects they were corporations. The Athenian commonwealth con-

sisted of three hundred and sixty houses ; each house had a peculiar name resembling a patronymic in form, as at Rome the Claudii, the Fabii, the Cornelii. This gave some appearance, but only a fallacious one, of a family affinity. The Homeridæ in Chios, were a house whose descent from the poet was inferred only from their name, though they were probably in no way related to him. The name was derived sometimes from the most distinguished family of the house, and sometimes from some hero. The houses were political institutions, formed by the legislator, to harmonize with his plan of the constitution of the state. Cicero's definition of a Roman gens, does not imply that the members have a common origin. He says they have a common name, are descended from freemen, without any stain of slavery among their ancestors, and have incurred no legal disability. The *gentiles* or members of a gens had common religious rites, offered sacrifices at stated times and places, and were bound to assist indigent members of the gens in extraordinary exigencies. In the second Punic war, the gentiles wanted to ransom their fellows who were in captivity, and were forbidden to do it by the senate. In the municipal towns and states of Italy, the institution of houses was general, and when they became incorporated with Rome, the houses were not dissolved, though they did not bear any political relation to the state. No houses but those which composed the three ancient tribes, were essential parts of the body politic. Thus the patricians boasted that they alone had a house or gens. There were thousands of plebeians at Rome, who belonged to houses in the municipal towns, and possessed gentile privileges there, but were not acknowledged by the state. This division into houses, was essential to the patrician order, and the ancient phrase for that order, was *the patrician gentes*, instead of patricians. A patrician was called a man of a patrician house, *vir patriciæ gentis*.

The patricians, their clients and dependents, made up the whole of the original Roman people. The clients, however, were a different class from the plebeians. The three original tribes, comprised all the Romans by means of the houses they belonged to, but the plebeians or commonalty were formed afterward.

How the relation of patron and client arose, is uncertain. The clients were not landholders ; sometimes they gained a

livelihood by the mechanic trades ; sometimes received grants from their patrons of lots for building, and two jugera, or about an acre and a half of arable land, not as property, but as tenants at will of their landlords. They were entitled to paternal protection from their patron ; he was to relieve their distresses ; to appear for them in court, and to expound the law for them. On the other hand, the clients were to be dutiful and obedient to their patron ; to promote his honor ; to pay his fines ; to aid him in bearing the public burdens, and charges of public office ; to contribute towards portioning his daughters, and to ransom him or any of his family from captivity. There is a strong resemblance in this relation to that of vassals to their lords in the middle ages. It was a mitigated form of the feudal system.

If a client died without heirs, his patrons inherited ; in a word, the bond between the patron and the client was so strong, and the authority and control of the one, and the subserviency of the other were so complete, that it is not easy to see how it should be supposed the plebeians and clients were the same. A client would not be allowed to oppose his patron, or to vote against him.

In the time of Julius Cæsar and Augustus, the original patrician houses had been reduced to fifty families. So many houses had become extinct, or merged among the lower orders, from poverty, that there were no longer persons enough for the priestly office, which could be filled by none but patricians.

There has been a good deal of uncertainty with regard to the constitution of the Roman senate. That illustrious body existed for thirteen centuries, and during a considerable portion of that time, its decisions had a greater influence on the destinies of the civilized world, than was ever exercised by any other similar assembly. But the origin of the senate, the manner of appointing its members, the duration of their office, whether for a number of years, or for life, are questions which are involved in much obscurity. Again, what public office gave a man a right to a seat in the senate, and was it during the time he held that office only or during his life ? It is said that after the establishment of the Censorship, the censors had authority to appoint senators, and to remove them for unworthy conduct. How far this power was regulated by laws or exercised by an arbitrary discretion, is a question attended with much uncertainty.

We by no means say that Niebuhr has dispelled all the obscurity that hung over the subject, but he has given a much more probable account of the origin and nature of the senate, than we have ever had before. He rejects, altogether, the common notion, that the senate was an institution of the king, and the members appointed by him.

The king was chosen by the senate, not the senate by the king. He considers the senate to have been an assembly of the elder citizens, the representatives of the patrician houses. This was the constitution of the senate during the monarchy, and until the first age of the republic.

No plebeian was admitted till after the decemvirate. When the censorship was established, the censors are supposed to have had the power of appointing senators and removing them from office for a sufficient cause. Niebuhr thinks that the power to appoint, extended only to filling vacancies that occurred from each cury, and that the authority to expel was only from good cause according to fixed laws or settled usage.

The institution of the senate was not a measure of policy adopted by the founder of the city. In all the cities of the civilized nations round the Mediterranean, a senate was no less essential than a popular assembly. It was a select body of the elder citizens, such a council as Aristotle says there always is, in every state, whether the constitution be aristocratic or democratic.

The Roman senate corresponded to the tribes, curies, and houses; and, originally, when the number of houses was completed, they were represented by the same number of senators, the three hundred senators represented the same number of houses. Each gens or house, sent its decurion, who was its alderman and the president of its by-meetings, to represent it in the senate, so that the senate was composed of the heads and representatives of the houses, and must have been originally chosen by the houses and not by the curies.

When the state was without a king, ten senators presided over it during the interregnum. The office of king was elective. When it was vacant, the senate agreed among themselves on the person to be proposed to the curies, whose power was confined to accepting or rejecting him. It was a *rogation*, as in the case of a law, and hence the interrex is said *rogare regem* to put his acceptance to the vote. Numa and Ancus Martius, are said to have been appointed in this way.

The curies could not vote on any matter, unless it was laid before them by a decree of the senate.

It was the law passed by the curies, that invested the king with all the power he needed, as head of the state and of the army, and with authority to hold courts and appoint judges. He had the absolute command of the army, and was the priest who offered sacrifices for the nation. He convoked the senate and assemblies of the people to propose measures to them. But laws, questions of war and peace, were determined by the people. An appeal lay from his decisions, as a judicial magistrate, to the people, that is, to the patricians in comitia curiata; the kings were taken alternately from the Romans and Quirites or Sabines.

The discoveries, as we think they may justly be called, made by Niebuhr, concerning the character and condition of the plebeians, are among the most important in his work, and throw much light on the constitution of Rome and the events in the early period of her history. The plebeians, he has shewn, were not the clients of the patricians as has been hitherto universally supposed, but a separate and distinct class from the patres and clients as we have before mentioned.

In every state, the constitution of which was founded on a number of houses, such as the states of Greece and Italy, a commonalty grew up by the side of the burghers, the original landholders, who formed the houses. The members of this commonalty were recognised as freemen and fellow-countrymen, were under the protection of the laws, might acquire landed property, had their courts and meetings for making by-laws, were under none of the obligations of clients to their patrons, but were personally free and independent. They were bound to serve in time of war, but were excluded from all share in the government, which was confined to the aristocracy consisting of the houses.

The Roman plebs in early ages consisted exclusively of landholders and agricultural laborers, and none of them gained a livelihood by commerce or any mechanical employment. With the Romans, civic trades and commerce were in low repute, and agriculture in the highest. In the middle ages, as is well known, the case was directly reversed among the states of Europe. The plebs or commonalty arose from a number of different elements, and from very small beginnings was enlarged to an almost immeasurable extent. In the origi-

nal three towns, of which Niebuhr supposes Rome to have been compounded, a commonalty must have begun to form, from strangers who came to settle in the Roman state, and were received under the protection of the laws, and clients who were emancipated by their patron's consent, or by the extinction of his race, an event of no uncommon occurrence. But the most important and respectable portion of this order, or the genuine plebs, took its rise from the domain formed out of the towns won from the Latins. Many of these conquered places were converted into Roman colonies, others were destroyed, and the inhabitants carried to Rome. All were invested with the Roman franchises, or were considered as free citizens. This indeed gave them no political power before the formation of the centuries, for till that time this right was confined exclusively to the *Comitia Curiata*, or assemblies of patricians. They of course had no share in the government, formed no part of the state, politically speaking, and could not intermarry with the patricians. All the nobles of the conquered places were among the Roman plebeians.

No patrician could marry out of his order without losing his caste. But such marriages of disparagement must no doubt have often taken place, and the offspring belonged to the plebeian class. The clients being an entirely different class from the plebeian commonalty, did not coalesce with it until the later times of the republic. The plebeians had no patrons, unless the king himself might be considered as the patron of their order. The controversies between the different orders, about which we read so much in the early ages of the republic, were not between the patricians and the clients, but between the plebeians on the one side, and the patricians and their clients on the other.

The existence of the plebs as a free and very numerous portion of the nation, can be traced back to the reign of Ancus Martius. But it was not formed into a regular united body till the time of Servius Tullius, by the institution of the plebeian tribes.

The tribes established by Servius were local, and every local tribe had a region corresponding to it, and all the free members of the Roman state not included in the patrician gentes, who dwelt within the limits of the district or region, were registered as its tribesmen. The district had the name of its tribe whether in the city or country. The city was divided into four

regions, answering to the four civic tribes, and these were continued to the time of Augustus, when a greater number of districts was established, to accommodate the increased size and population of the city.

The number of regions into which the Roman territory without the city was parcelled out, and consequently the number of plebeian tribes, has been a subject of much doubt and controversy. Niebuhr has, we think, proved beyond any question, that the original number of rustic tribes was twenty-six, making with the four civic tribes, the complete number of thirty. The only objection to this number is the fact stated by Livy and others, that in the year 259, when a new tribe, the Crustumine was admitted, the number was increased to twenty-one. This diminution in the number of tribes is accounted for by the war with Porsenna, the Romans having been compelled to cede to him all their territory on the right bank of the Tiber, probably comprising about one third of the whole, and ten of the rustic tribes. The romantic story, that the conquered territory was restored by the generosity of Porsenna, has no true historical foundation, and was no doubt invented, like some other fictions, to conceal the humiliation and fall of Rome. In those times a vanquished people was usually compelled to give up one third of its territory to the conqueror, and the Romans were then forced to submit to the same law of conquest which they so often imposed on other states.

These tribes do not correspond in number with the patrician tribes, but with their sub-divisions, the curies. As the patricians voted only by curies, their original division of tribes seems to have sunk into disuse.

The tribes of Servius comprised at first only plebeians, and the patricians and their clients were not enrolled in them till a much later period. The *Comitia Tributa*, or assemblies of the plebeian tribes, were convoked by the tribunes, who presided at all their meetings. They met in the Forum, from which both the patricians and their clients had to withdraw, and were not allowed to be present at their meetings.

The institution of Centuries was one of the most important changes ever effected in the Roman institutions. No one has been more entirely misunderstood in its object, tendency, and composition.

We shall endeavor merely to state the conclusions of Niebuhr on this subject, without having time or space to assign the reasons on which they are founded.

The object of the legislator was to admit the plebeians, who were now the most numerous portion of the citizens, and formed the principal strength of the army, to a share in the government, from which they hitherto had been excluded. Another object was to unite in one body all the citizens capable of bearing arms, whether patricians, plebeians, or clients, so that the *comitia centuriata* were assemblies of all the men of all orders liable to perform military duty. The centuries were a popular institution, with an important share in the choice of magistrates, and in the government of the state, and also a military institution, and intimately connected with the organization of the army.

Of the whole number of one hundred and ninety-three centuries, eighteen were equestrian ; six equestrian centuries, instituted by the elder Tarquin, comprised all the patricians who bore arms. The remaining twelve equestrian centuries were composed of plebeians, the first class of eighty centuries of foot were all plebeians, and far the greater portion of the other classes below them. The principles on which the centuries were formed, in respect to political power, is well known to be that of considering the state as a joint stock concern in which the weight of every man's vote is in proportion to the amount of his taxable property. The institution stopped much short of an entire democracy, where the votes are all equal, but it was a very great gain to the plebeians that the *comitia centuriata*, in which they had a very large majority of the centuries, should have such a share in the government as to be able to protect themselves.

There is one principle running through the Roman institutions which deserves attention.

In their popular assemblies great care was taken to prevent decisions by a majority of mere numbers. In the language of Cicero, *Curavit ne plurimum valeant plurimi*. Thus, in the *comitia curiata*, the decision was determined by a majority of the *curies*, and the vote of each *cury*, by a majority of the houses composing it. In the *comitia tributa*, the vote was decided by a majority of the tribes, not of the tribesmen. In the centuries, the principle was carried still farther, and a small minority in number might have the majority of the centuries. Great care was taken to prevent mere numbers from turning the scale. This principle, in Cicero's opinion, gave the Roman institutions a great advantage over those of the Greek states,

where measures were carried by masses, by the majority told by the head and not by the votes of the several orders. Each class of centuries had an equal number of senior and junior centuries, and the first class was divided into forty senior and forty junior centuries. But the senior centuries, though they had equal weight in the comitia, were probably not more than one third as numerous as the junior and so of the other classes.

Before the time of Servius the *populus* or patrician houses had the government and all the public property in their own hands. Politically speaking, they were the only estate in the Roman nation. But from this time forward the nation, consisted of the two estates, the *populus* and the *plebs* or commonalty, both in law equally free and independent, but differing in rank and dignity.

The words *populus* and *plebs* were opposed to each other, and both were used for a long time after to express the whole nation, and in religious formularies till the time of Cicero. The use of *populus* for the assembly of the centuries, was not known in the early ages of the republic, and for the whole nation not till later times.

It is stated that the *plebs*, with the concurrence of the *populus*, in the year 341, committed the charge of investigating the murder of Posthumius to the consuls.

A concilium was an assemblage of a part of the nation, not of the whole. The *concilia populi* were assemblies of the patricians or curies. This was the concilium to which Publicola paid homage by lowering his fasces. The same assembly decided the controversey between Aricia and Ardea, concerning the disputed territory, according to the principle of the well known fable, where the arbiter adjudges the whole of the property in dispute to himself. The patricians were then the only possessors of the public domains, and would have the benefit of any new acquisition. The plebeians had no interest in deciding unfairly, and the consuls would never have assigned to the plebeians the honor of settling a dispute between two foreign states. It was by the curies that Manlius, the savior of the capitol, was condemned after being acquitted by the centuries.

The institutions of Servius were so obnoxious to the patricians, that they conspired with the younger Tarquin, and put him to death. The commonalty were then deprived of those

rights granted by the institutions of Servius, and centuries elapsed before they were able to recover them. The practice of pledging the person for debt, was abolished by Servius, and that of pledging property was substituted. This was repealed in the reign of the last king, and the patricians contrived to prevent its renewal for two hundred years after the commencement of the republic.

There was a story that Servius intended to resign the throne, and entrust the executive power to two consuls, elected annually, and according to common tradition, there was some connexion between the consulate and his institutions. Livy says, that the first consuls were chosen according to the commentaries of Servius. These contained a detailed scheme of his institutions, as appears from the quotations of Festus. Niebuhr supposes it probable, that it was the design of the legislator to place the two orders of patricians and plebeians on a level, with regard to the consulship, and that each should have an equal share in that office. The first Brutus, he supposes to have been a plebeian, and chosen to represent that estate in the consulship.

Niebuhr says the object in appointing a dictator, was to deprive the plebeians of the advantages given them by the constitution of Servius. The patricians went farther, and withdrew the election of consul from the centuries, and vested it in the curies. After the banishment of Tarquin, and so long as his family was an object of alarm, the patricians exercised the powers of government with some degree of justice and moderation. But after the death of Tarquin, the patricians treated the plebeians as slaves, excluded them from all share in the public domain, and all influence in the government. The plebeians were at once forced to pay tribute, and to serve in almost continual wars. Aided by the terror of the dictatorship, the patricians revived the ancient laws of debt, which were not abolished till the decemvirate. These severe laws which pledged to the creditor the person, family, and property of the debtor, affected the plebeians alone. A patrician could not pledge his person, or be sentenced to servitude. A Roman prison, a dungeon into which no ray of daylight entered, was a place of horror and misery.

As an example of the errors concerning the Roman institutions, into which the most eminent statesmen and political writers have fallen, we may mention the Defence of the Ame-

rican Constitutions of Government, by the late President, John Adams. In this work, the author displays much ability, and extensive historical and political knowledge. But in his accounts of the Republics of Antiquity, he has entirely mistaken the nature of the popular assemblies in Rome, and the object and character of the institutions of Servius Tullius. He supposes that the *comitia curiata*, were assemblies of all the citizens, patricians and plebeians, rich and poor, and that in these meetings the poor always had a large majority; whereas these assemblies were composed entirely of patricians, and were exclusively aristocratic. He considered the plebeians, as the clients of the patricians, instead of being, as Niebuhr has shown, a separate and distinct order. Mr. Adams says, that Servius, by the institution of centuries, threw all the power into the hands of the patricians, whereas the object of Servius, or whoever was the author of the institutions ascribed to him, must have been directly the reverse. The patricians had all the political power before, and the institutions of the classes and centuries, gave the plebeians a share in the government.

It is not strange, however, that Mr. Adams should have adopted the erroneous notions concerning the Roman constitution, that were universally prevalent when he wrote. He has only erred in company with the most distinguished philosophical and political writers in Europe, as Machiavel, Montesquieu and Hume, who have taken the same or similar erroneous views of the Roman government and popular assemblies.

Ferguson, in his history, supposes that the Roman dominion extended but a few miles from the city, at the banishment of the last Tarquin, and the same erroneous notion is adopted by most historians. One of the most decisive proofs of the power of Rome, and the extent of her dominion at the end of the monarchy, is derived from the first treaty between Rome and Carthage. This treaty which was concluded the first year after the expulsion of the Tarquins, was translated by Polybius, from the original tables of brass, then existing in the Capitol. It appears from this, that the Roman dominions extended from Ostia, beyond Terracina, probably as far as Cuma, and perhaps farther. The Republic then possessed the whole inheritance of the monarchy. Livy, when he wrote his second book, either had not heard of this treaty, or chose to suppress his knowledge of it as too humiliating to Roman pride,

inasmuch as it divulged the secret of the early greatness of Rome, and of her fall by the war with Porsenna.

In the account of the war with Porsenna, there is, according to Niebuhr, nothing that can withstand the slightest criticism, as to historical truth. The Roman historians have endeavored to conceal the fact, of the entire conquest of Rome by the Etruscan king. They admit that Rome was compelled to cede to him all her territory on the right bank of the Tiber, but try to disguise the humiliating truth, by the fictitious tale of the romantic generosity of their adversary, and the heroism of Horatius Cocles and Mucius Scævola. After a short time, she threw off the yoke of the conqueror, but with the loss of one third of her proper territory, and her foreign possessions.

According to Tacitus, the city was compelled to surrender to the conqueror, — his words are “*Sedem Jovis Opt. Max. quam non Porsenna, dedita urbe, neque Galli capta, temerare potuissent.*” Hist. iii. 72. The meaning of *dedita urbe*, especially when used by such an accurate master of language as Tacitus, admits of no doubt. The city surrendered to Porsenna. Whether he was not master of the Capitol, or whether *potuissent* refers only to the Gauls, is not very important; a surrender, according to the severe laws of war among the ancients, had the same meaning as a surrender at discretion in modern warfare. It placed the state, and every individual with his property, freedom, and life at the mercy of the conqueror. A town or state thus reduced, was amerced of a certain portion of its territory, commonly a third, and a tax or tribute, equal to one tenth of the produce of all the cultivated land, was imposed on the remainder.

It has been mentioned before, that a third of the plebeian district, or ten tribes, which Rome possessed in the time of Servius Tullius, was lost, and that this loss was incurred in the war of Porsenna. It appears from Plutarch, that there was a tradition preserved, that the Romans at one time paid a tenth part of the produce to the Etruscans. This can refer only to the time of Porsenna.

Pliny, in his natural history, says, that Porsenna expressly prohibited the Romans from using iron for any other purpose than agriculture. His words are, “*in fœdere quod expulsis regibus populo Romano dedit Porsenna, nominatim comprehensum invenimus ne ferro nisi in agri culturam uterentur.*” Pliny here seems to be citing a document still in existence. Niebuhr

justly remarks, that a people on whom such a condition was imposed, must have previously delivered up their arms. There are several examples of a similar restriction in the history of the Israelites, imposed by their conquerors, as in the case of Jabin, King of Canaan, and the Philistines, in the time of Saul.

According to Dionysius, the senate sent to Porsenna an ivory throne and other badges of royalty. This must have been in token of submission to him as their sovereign.

It was our intention to notice some of the most interesting parts of the second volume, but the space we have devoted to the first, leaves us but little room.

The first volume, we consider to be the most important to a knowledge of Roman history, but the second, exhibits proofs of the same learning, critical sagacity, and unwearied diligence of investigation, as the first. From the commencement of this volume, the author undertakes the restoration of a genuine, connected history. It is in the history of the constitution, that he felt the most confidence, in tracing the successive changes produced either by the contest between the different orders of the state, or the silent operations of time.

A great portion of this volume is taken up with dissertations on subjects connected with Roman history, as on the Latin state, and the alliance of the Romans with the Latins, the agrarian laws, and the laws of the twelve tables. As agrarian schemes have excited some interest in modern times, in the French revolution, and have attracted some attention in our own country, we shall devote a few paragraphs to the mode in which landed property was held in Rome, and to the agrarian laws.

It will be seen, that the agrarian laws of Rome, did not affect the security of property, or limit the amount of land to be *owned* by an individual, and consequently afford no example for the schemes of our modern agrarians.

Niebuhr has given a very full and clear account of the tenure and condition on which lands were held at Rome; the nature of the public domain; the mode of its occupation, and the character and objects of the agrarian laws. This reflects so much light on the Roman institutions and the controversies between the patricians and plebeians, that we shall attempt to give our readers a condensed statement of his views on these subjects.

It would be a great error to suppose that landed property in Rome and other states of antiquity, was on the same footing as in this country, and in a great part of modern Europe. In Rome, (we speak of the monarchy and early ages of the commonwealth,) the power of accumulating *property* in land, and the right of alienating it was limited. This policy grew out of the peculiar situation of the small contiguous states in Italy and Greece. They were engaged in frequent and destructive wars with each other. Security against foreign aggression was a primary object of concern, and this security depended chiefly on their military force, or the number of citizens able to bear arms. Hence the endeavor to increase their numbers so far as their territory would afford the means of subsistence. This was a far more important object than to increase the wealth of individuals. When the people in a city or state had been diminished by war or disease, foreigners were invited to come and settle among them, and take possession of the lands and houses that were vacant. Hume quotes several such instances from Diodorus. He is a pernicious citizen, said M. Curius, who cannot be content with seven acres, or rather seven jugera, of land.

Niebuhr supposes that originally, the patricians at Rome, comprised the whole body of the landholders. That part of the Roman territory, held as private property, was divided into small allotments of two jugera to each citizen. A hundred such allotments formed a century, consisting of two hundred jugera. This was a district of a cury, and each cury had one such district. Each cury and district contained one hundred householders, and these were divided into ten decuries. The lots in each century or cury, were considered as one mass. The property of a citizen who died without heirs, went to his gens or house, and if his house became extinct, his property was inherited by the cury.

In the original Roma, before the accession of the two other towns, of which Rome was afterwards composed, there were ten of those districts or curies. This would make two thousand jugera in the allotments, and this, Niebuhr supposes was all the land that was held as private property, in the original territory of Rome, till the rise of the plebeian order. The rest of the land was the property of the state. It was either common for pasturage, or royal or public domain. As the patricians had the government entirely in their hands, they

had the control of all the public property. This they could parcel out among themselves as a possession, and occupy as they pleased, and portions of it were let by the patricians to their clients and dependents as tenants at will.

When the city was enlarged, as Niebuhr imagines, by the union of two other towns, similar allotments of landed property existed in those towns before, or were made at the time of union, and each undoubtedly had its domain. When by the union of the three towns, the number of the patrician tribes was increased to three, each tribe consisting of ten curies, there were thirty districts, each containing two hundred jugera, making in the whole, six thousand jugera, or about four thousand acres.

Every law, by which the commonwealth disposed of its public land, was called an agrarian law. Thus, for instance, the law by which the domain of the kings was parcelled out among the commonalty, on the termination of the monarchy, and that by which colonies were planted, and so of the law by which the state resumed its domain from the old possessors, (not proprietors) and assigned the right of property therein to others.

The common notion is, that an agrarian law sets a limit to the amount of landed property any person is allowed to possess, and assigns all beyond that limit to the destitute. The equal partition of land, demanded by the levellers in the French revolution, was deemed an agrarian scheme.

No laws were ever more just or more beneficial to the state than the agrarian laws of Rome, from the origin of the city to the time of Julius Cæsar. These laws all concerned the *public domain*, they set no limit to the landed *property* of any class or individual. They often limited the quantity which any one was allowed to *possess* of the public land. Those who occupied the public lands were called the *possessors*, the occupation was a *possession*. These terms were technical, and those who occupied the public lands had, strictly speaking, no property in them, but only the possession. They were tenants of the state at will, or at most, from year to year.

There was, strictly speaking, no injustice done, when the state resumed the possession of the public lands, and parcelled them out to others as property, or sold them to the highest bidder. Most clearly, there was no injustice in limiting the amount which any man should be allowed to possess of the

public lands, that part of the agrarian laws which has been so much misunderstood, and the subject of so much undeserved censure. The public land of the Roman state had attained to a great extent in the time of Servius. By the agrarian laws of Servius, a distribution was made, one part was reserved for the *populus* or patricians, another part was assigned to the plebeians in absolute property. The possessor of the public lands paid a small proportion of the produce to the state commonly one tenth. By the agrarian law of Spurius Cassius, another assignment was made of lands, acquired by the state, after the time of Servius. Both these laws probably limited the amount to be possessed.

The patricians alone had the legal right to occupy the public lands by *possession*, but had no right to an assignment of them as property. The plebeians could not occupy the public land by possession, but received assignments of it as owners. The share assigned to each plebeian, was seldom so large as seven jugera, or about five acres, frequently not more than two, subject to all assessments. The share that each patrician might possess must have been much larger. Hence the complaint of the tribune in Livy, that while the plebeians had but two jugera, the patricians were unwilling to be limited to five hundred.

When the plebeians had increased so as to become the most numerous class of citizens, and to constitute the main strength of the Roman armies, all the infantry, and a great portion of the cavalry, being drawn from the plebeians, according to the constitution of Servius, it was an intolerable injustice to give them no share in the public domain, won by their blood. There seems no reason to doubt the traditions, that assignments from the public domain were made to the plebeians by Ancus Martius and Servius Tullius. The Roman soldiers served without pay, and these assignments were the compensation for military services.

As the patricians originally constituted the state, politically speaking, they considered all the public domain as theirs, and no doubt rightfully at first. But when a change of circumstances gave the plebeians a just claim to a share of the public lands, the patricians were desirous to retain not only all that they possessed originally, but all that was afterwards gained in war, by armies composed chiefly of plebeian soldiers, serving without pay.

So far as concerned the state, it was undoubtedly far more advantageous to assign the public domain in small lots to the plebeians, subject to all assessments and to military service, than to permit the possession of it in large parcels, by the patricians. The payment of the tenth of the produce reserved as rent was often evaded. The aristocracy having entire control of the domain, did not call each other to a strict account for the tithe due to the state.

And the real question, in most, if not all the agrarian laws, that were the occasion of such bitter controversies between the two orders in the state, so far as we can see, was, whether the commonalty should have an equitable share of the public lands, or whether the aristocracy should possess the whole. In these contests the commonalty finally prevailed.

The agrarian laws of Spurius Cassius, of Licinius, and of Tiberius Gracchus, were eventually carried into execution, and absorbed a great portion of the public domain.

An extraordinary inference is drawn by Hume, from a mistake in the meaning of a law of the twelve tables, referring to the public domain, in the following passage from his essay on the populousness of ancient nations.

“ By the laws of the twelve tables, possession during two years formed a prescription for land, one year for moveables ;* an indication that there was not in Italy, at that time, much more order, tranquillity, and settled police, than there is at present among the Tartars.”

A very broad conclusion from the premises. We believe it will be found on examination, that the law in question, of the twelve tables, relates to the public domain, so far as it concerns immovables, and merely provided that two years' possession fairly obtained, should give the occupier the right of possession against all others, but gave him no property in the land which belonged to the state, and might be resumed at pleasure. There was nothing in this part of the law inconsistent with order, tranquillity, and a good police. The other part of the law is equally unobjectionable. The word *usucapio*, translated prescription, did not mean originally such a possession as gave any right of property against the true owner.

Gibbon says, that the twelve tables of the Roman laws were dictated by the rigid and zealous spirit of an aristocracy, which

* Inst. lib. ii. c. 6.

had yielded with reluctance to the just demands of the people. Niebuhr supposes it to be an error to regard the twelve tables as merely a civil code like the institutes of Justinian, though the opinion has prevailed from the revival of letters down to the present time. The object aimed at was three-fold ; to unite the two orders of patricians and plebeians, and place them as nearly as possible on an equal footing ; to institute a supreme magistracy in the room of the consulship, with less power, and to limit its arbitrary authority ; and lastly to form a national code for all classes of Romans without distinction.

The people wanted a written constitution to regulate the whole frame of government, to define and limit the authority of the magistrates, and determine accurately the legislative and judicial authority of the senate, the centuries and the tribes. They wanted also a remedy for the great diversity of privileges between the different orders, as well as a written code of civil and criminal law.

The statement of Livy, and the common opinion that the twelve tables were derived wholly or in part from the laws of Solon, both Niebuhr and Gibbon consider as altogether unfounded. Niebuhr says they are not of Grecian origin and have no relation to the Attic civil laws, and that with regard to the rights of persons, legal forms, and judicial proceedings, the two codes have not the slightest resemblance. He thinks, however, the Roman commissioners may have gone abroad to seek for legal wisdom in a state so renowned as Athens, then the most glorious and powerful of all republics, but that they afterwards found the laws of Solon inapplicable to Rome ; but whatever information the Romans may have sought or obtained from Greece, he supposes to relate to the political institutions, and not to the civil code of law.

There was a great similarity in the political institutions of the civilized states around the shores of the Mediterranean. The institution of gentes or houses was common among them, and all had their senate and popular assemblies, and nearly all were in name or in fact republics. In many of these states, the changes in their institutions and their political history were somewhat similar, though they furnished examples of almost every modification of the relation between the different orders or classes of citizens. The states of Greece, at this time, might have furnished to the Roman aristocracy and commonalty abundance of examples both for warning and imitation.

The seven consulships of the Fabii are without a parallel in the annals of the republic, except at the beginning, in the case of the Valerii. From the year of the city 269 to 275, one of the consuls was chosen from the Fabian family ; and this, Niebuhr says, must have been connected with some revolution, by which the oligarchy intended permanently to secure the superiority they had gained. These successive consulships in one house are thus accounted for. To accomplish the destruction of Spurius Cassius, and defeat the agrarian law, it was necessary for the oligarchy to engage the powerful house of the Fabii in the design, and the price paid was, that one of the consuls should always be a Fabius. But in order to secure this object, and with it the uncontrolled power of the patricians over the plebeians, it was necessary to transfer the election of consuls from the centuries, where the plebeians had a very great majority, to the curies, where none but patricians had a vote. This was accordingly done, and consuls most obnoxious to the plebeians, and most determined supporters of the aristocracy, were chosen. The agrarian law was not executed, and unnecessary wars were stirred up to employ the plebeians, for while the legions were in the field the forum was vacant.

The centuries in a few years regained the choice of one consul, but the other was chosen by the curies, till after the decemvirate. The troops under Sp. Furius, the consul chosen by the centuries, fought bravely for the honor of the man whom they had elected ; but the troops under Fabius, the other consul, chosen by the patricians, did not look upon him as a legitimate consul, and threw away the victory when it was already in their power, abandoned their camp, and retreated to Rome. The Fabii saw that the consulship was but a melancholy honor, under such circumstances, and they resolved to make friends with the commonalty. Distinguished as they were for bravery and generosity, the attempt was successful ; the reconciliation was complete, and a Fabius was the consul chosen by the centuries. The Fabian house no longer acted in concert with the patricians to preserve their usurped power. Cæso Fabius, who had condemned Cassius to death, because his agrarian law was an encroachment upon the aristocracy, now, when he entered upon his office as consul, recommended to the senate that the law should be carried into execution, but the aristocracy would not listen to him. They reviled him and his house as traitors and apostates

to their order. Fabius, after a glorious campaign, renewed his propositions for a reconciliation between the houses and the plebeians. Finding there was no hope of obtaining a hearing for them, his house resolved to depart with their adherents and dependents, from a place where they could no longer live in peace, and to found a separate settlement. They marched to the river Cremera, erected a fortress, and took an active part in the war against the Veientes.

The catastrophe is well known; they were destroyed to a man by the Veientes. Niebuhr supposes that they were intentionally sacrificed by the Roman consul, Menenius, who was encamped with his army but a short way off at the time, and was afterwards condemned as the guilty cause of this disaster. This account is more probable though less romantic than that of Livy.

We shall merely notice a few of the most distinguished personages in the second volume, and especially one or two of those whom Niebuhr has endeavored to vindicate from the unjust censures of other historians.

The most eminent and meritorious of these is Spurius Cassius, who was three times consul, and whom Livy calls the author of the first agrarian law. As represented by Niebuhr, he was one of the wisest statesmen and most accomplished patriots in the Roman annals. He gained three triumphs; concluded three treaties; formed an alliance between the Romans, Latins and Hernicans; and by his agrarian law endeavored to do justice to the plebeians, and attach them firmly to the state. He was tried and condemned by the *populus*, that is, an assembly of the patricians, whose enmity he incurred by the agrarian law. The law was finally executed, but not till after the death of its author.

The brave and patriotic founders of the Cincinnati, hardly made the best choice of the beauideal of a patriot that antiquity could furnish. In his poverty, courage, disinterestedness and retirement to private life, Cincinnatus may resemble the heroes of our revolution; but he was the champion and efficient supporter of a much greater tyranny on the part of the patricians over the commonalty, than the founders of the Cincinnati ever resisted.

Niebuhr's account of him does not in most particulars differ essentially from that of Livy. In both he appears as the champion of the patricians in resisting the just demands of the ple-

beians. Niebuhr considers him as guilty of the murder of Spurius Melius, the rich knight who relieved the distresses of the poor in a time of famine, and who was slain in the forum for the pretended crime of aspiring to the sovereignty.

Marcus Manlius, the savior of the capital, he supposes was innocent of the crime of which he was accused, but was finally driven into insurrection by the persecution of his enemies. The assembly that acquitted him was that of the centuries; the assembly which condemned him was that of the curies. This, and not the sight of the capitol, was the cause of the different decisions.

Coriolanus is rendered as familiar to us by the genius of Shakspeare as by all the historians. The legend of his exploits is partly connected with real facts, and in part must be fictitious. Niebuhr supposes that he spared Rome when it was in his power to take it, but on such conditions that he was guilty of no treachery to his new associates, as he lived to an old age among the Volscians, and the story of his being slain by his rival was a fiction invented long after. The whole account is placed too early in the common history by twenty years. This, however, would not be enough to save the chronology of Shakspeare, who makes the personages of the play talk of Cato and Galen, one of whom lived two hundred, and the other five hundred years later.

We have thus endeavored to call the reader's attention to this most learned and valuable historical production. We know of no work which will better reward the attention of the scholar, and of those persons who read history, not merely for entertainment as they do the last popular novel, but for accurate and useful knowledge.

Niebuhr had several of the qualities necessary to an historian of the highest order. The extent and minute accuracy of his learning, his keen sagacity, sound judgment, unwearied diligence, and happy talent of bringing all his vast knowledge to bear upon his subject as he almost always does, has enabled him to elucidate the progress of society, and solve many perplexing riddles which had baffled the researches of other historians.

He had a high, though perhaps not an exaggerated, sense of the importance of his subject. When the Roman empire is viewed as connecting the ancient and modern world, and as the source from which the modern civilized nations derived a great part of their language, literature, laws and institutions; when the great events and distinguished personages exhibited

in its history are considered, we may justly conclude that no nation has had a more extensive and durable influence on the condition and character of the human race.

Some eminent historians in modern times have too much the character of partisans, and advocates, and view actions, characters, and events not in the light of truth, but through the medium of party prejudice, and write history in the style of political pamphlets, or newspaper essays. We do not perceive in Niebuhr an attempt to support any political system or party, but there is visible throughout the work a strong love of truth, a deep sense of right and wrong, a sympathy with the injured and distressed, and an indignation against injustice and oppression. No writer is more unlike the historians of whom Chesterfield complains, as shewing a "provoking contempt for humanity in general, and who would lead their readers to think that the human race consisted of about one hundred and fifty persons, called and dignified (commonly very undeservedly) by the titles of Emperors, Kings, Popes, Generals, and Ministers of State."

Niebuhr does not confine his attention to great events and great men, to consuls and dictators, victories and triumphs, but he shews the internal state and condition of society. Political events, changes in the constitution, laws, acts of public men, he considers and estimates with reference to their influence on the welfare of the people. He has the most perfect purity and uprightness of intention, but his sympathy with the oppressed, and indignation at all injustice and tyranny, may sometimes lead him to undue harshness in condemning the conduct of the patricians.

In attempting to point out the errors and deficiencies of the work, we might say that there is sometimes a want of perspicuity and methodical arrangement, that it is not always easy to see the bearing of the author's facts and illustrations, and that he is sometimes more confident in his conclusions than his premises warrant. We think too, that the composition of the work is not quite equal to the value of the materials, and that the author has been more successful in the acquisition of knowledge, than in his manner of communicating it. But in a production of such rare excellence, we believe the reader, in proportion to his acquaintance with it, will admire the genius and learning of the author, and be the less inclined to dwell on any defects. It is evident that inquiries of this

nature, carried on with such freedom and boldness, and leading in so many instances to results, different from the common belief, will unavoidably be liable to some doubts and objections.

We are fully sensible that our efforts must fail of giving an adequate impression of the merit of this great work, which we think unlikely ever to be surpassed in its own department, and we can hardly hope that any historian will arise to finish the vast fabric of Roman history, according to the magnificent plan of Niebuhr, and in a style to correspond with the foundation he has laid.

ART. V.—*Professor Hitchcock's Report on the Geology, &c. of Massachusetts.*

1. *Report on the Geology, Mineralogy, Botany, and Zoology of Massachusetts, made and published by order of the Government of that State. With a Descriptive List of the Specimens of Rocks and Minerals collected for the Government. Illustrated by numerous Wood Cuts, and an Atlas of Plates.* By EDWARD HITCHCOCK, A. M., Professor of Chemistry and Natural History in Amherst College, &c. Second Edition, corrected and enlarged. Amherst, 1835. 8vo. pp. 702.

GEOLOGY has for its object the natural history of the earth. It is regarded by Professor Mohl as a department of Physical Astronomy. Its name is derived from the Greek $\gamma\eta$, earth, and $\lambda\acute{o}\gamma\omicron\varsigma$, a discourse; and is understood to signify the doctrine or science of the earth. This science investigates and describes the structure of our globe, the nature of its various components, and the laws which have effected, and still continue to produce, changes in its mass. It not only explains those things which are interesting to a philosopher, but also aims to be practically useful. Descending with the miner into the darkest subterranean recesses, it directs, by its light, his operations to their most successful results. The situations in which are found the valuable metallic ores, beds of coal, gypsum, rock salt, strata of limestone, marble, and a thousand other materials useful to man, are pointed out with a great degree of accuracy, and are all described as they occur in nature.